

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Statutory Review of The System for
Regulating Rates and Classes for Market-
Dominant Products

Docket No. RM2017-3

THE AMERICAN POSTAL WORKERS UNION, AFL-CIO
MOTION FOR ACCESS TO NONPUBLIC MATERIALS FILED UNDER SEAL BY
THE UNITED STATES POSTAL SERVICE
(April 20, 2017)

Pursuant to 39 C.F.R. § 3007.40, the American Postal Workers Union, AFL-CIO (APWU) respectfully submits this motion to request access to the non-public versions of Appendices C and G appended to the comments filed under seal by the Postal Service in this proceeding on March 20, 2017. The materials consist of (1) a report by Alvarez and Marsal with the Institute for Supply Management, filed as Appendix C to the Postal Service's comments in response to Order 3673, and (2) two charts with projections of the Postal Service's financial conditions, filed as Appendix G. The Postal Service's case for eliminating the CPI cap on market-dominant rates relies in significant part on the redacted material.

The APWU is the exclusive bargaining representative of postal employees in the Clerk, Maintenance, and Motor Vehicle Service crafts nationwide as well as Operating Services, Material Distribution Center, and the Information Technology/Accounting Services Centers. The APWU is also a major mailer itself, sending millions of pieces of mailing in all classes, including First Class, every year. The outcome of this docket will have a significant impact on APWU represented employees and on the APWU itself.

The Postal Service's case for eliminating the CPI cap on market-dominant rates relies in significant part on the redacted material. Further, the issue over a change to the rate cap will likely remain an issue in the rulemaking phase of this process. The APWU expects to be an active participant in the this proceeding and should be entitled to data that would support its position. While, the APWU's agrees with the Postal Service's position regarding the necessity of eliminating the price cap, in order to properly support its position in subsequent proceedings, it should be entitled to review and analyze the data underlying the Postal Service's comments.

The Postal Service does not object to this request.

Accordingly, we request that the Commission authorize the following three individuals to review the nonpublic versions of the two appendices:

Kathryn Kobe, Director, Economic Consulting, LLC

Melinda K. Holmes, Partner, Murphy Anderson, PLLC

Jason R. Veny, Counsel, Murphy Anderson, PLLC

In accordance with 39 CFR 3007.40(b), the three individuals have completed a Statements of Compliance with Protective Conditions Certification. A copy of each certification is attached hereto.

Respectfully submitted,

Murphy Anderson, PLLC

A handwritten signature in black ink, appearing to read 'Jason R. Veny', with a stylized, cursive flourish at the end.

Jason R. Veny
1401 K Street N.W., Suite 300
Washington DC 20005

Statement of Compliance with Protective Conditions

The Postal Service has filed non-public materials identified as (1) a report by Alvarez and Marsal with the Institute for Supply Management, filed as Appendix C and (2) two charts with projections of the Postal Service's financial condition, filed as Appendix G in Commission Docket No. RM-2017-3. The Postal Service requests confidential treatment of the materials (hereinafter "these materials")

The following protective conditions apply to these materials. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

1. Access to these materials is limited to a person as defined in 5(f), 39 CFR 3001.5(f), or an individual employed by such person, or acting as an agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matter identified as PRC Docket No. RM-2017-3. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. "Involved in competitive decision-making" includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
3. Immediately after access has terminated under 39 CFR 3007.41 or 3007.51, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission:
 - (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and
 - (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.
4. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.

5. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.

6. These conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matter identified as PRC Docket No. RM-2017-3.

7. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 9 and 10, below.

8. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.

9. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.

10. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Appendix C and Appendix G by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as PRC Docket No. RM-2017-3. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	Kathryn Kobe
Firm	Economic Consulting Services, LLC
Title	Director of Price Cost Productivity Analysis
Representing	American Postal Workers Union, AFL-CIO
Signature	Kathryn L Kobe
Date	April 18, 2017

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Appendix C and Appendix G by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as PRC Docket No. RM-2017-3. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name Mindy Holmes

Firm Murphy Anderson, PLLC

Title Partner

Representing American Postal Workers Union, AFL-CIO


Signature 

Date April 18, 2017

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Appendix C and Appendix G by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as PRC Docket No. RM-2017-3. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Jason R. Veny</u>
Firm	<u>Murphy Anderson, PLLC</u>
Title	<u>Counsel</u>
Representing	<u>American Postal Workers Union, AFL-CIO</u>
Signature	 <u></u>
Date	<u>April 18, 2017</u>